EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA ERIE DIVISION

DEMETRIUS BROWN,
Plaintiff,

v.

C.A. No. 04-379 Erie

UNITED STATES,

U.S. JUSTICE DEPARTMENT,

BUREAU OF PRISONS (BOP),

FCI MCKEAN, HARLEY G. LAPPIN
Director of BOP, NEWTON E.

KENDIG- Medical Director of BOP,

D. SCOTT DODRILL- Northeast Regional Director of BOP, JOHN J.

LAMANNA- Warden of FCI McKean,

Defendants.

DEMETRIUS BROWN'S AFFIDAVIT TO PERSONAL INJURIES

- I, <u>DEMETRIUS BROWN</u>, herein as Plaintiff, hereby affirm and declare under penalty of perjury, 28 U.S.C. §1746, the following:
- 1. I, Demetrius Brown, Reg. No. 21534-039, am a federal prisoner currently incarcerated at FCI RayBrook. That, I currently am serving a 360 month sentence rendered by the United States District Court in the District of Minnesota. That, upon entering federal prison in July, 1997 at FCI McKean, I have been continuously exposed to Environmental Tobacco Smoke (ETS). That, upon transfer to FCI RaBrook in November, 2004, I had been continuously exposed to ETS until November, 2005 despite a national change in policy.

- 2. Prior to my imprisonment, beginning May 23, 1996, I had not been exposed to ETS. That, I had no exposure to ETS during my initial intake or between transfers. That, my only exposure to ETS came upon entering inside the general prison populations at FCI McKean and recently FCI RayBrook.
- 3. As a result of my exposure in the general prison populations among smoking inmates as well as staff, I suffered and am currently suffering from periodic, as well as chronic personal injuries. My personal injuries are nausea; an inability to eat; headaches; racing heart; chest pains; difficulty breathing; numbness in limbs; skin, nose, and eye irritations; hardening of tissue; dizziness; sore throat; coughing; weight loss; production of sputum; loss of hair folicles; exasperation of previously contracted STD; possible cancer; etc.
- 4. Upon entering FCI McKean in 1997, I was diagnosed as virtually a young healthy black male. I weighed 174 lbs, the sight for 20/20 vision, my skin, mouth and throat was normal, my blood pressure was normal although, I was documented as having had a previously contracted STD in 1991. But also, I was documented as being a non-smoker. See Attached Report of Medical Examination for 7/16/97.
- 5. Ater my exposure to ETS, bodily injuries began to occur.

 I experienced inflamation or swellings in teh mouth and throat area,
 my weight decreased due to the inability to eat, my blood pressure
 went up higher due to the carcinogens in tobacco smoke as my heart

began to race, my sight decreased from 20/20 to 20/15 in the right eye in which has a distinctive red marking near the pupil due to the irritating of tobacco smoke. My nose has been irritated due to the breathing of ETS, the inflamation of it which resulted in change. See Attached Report of Medical Examination for 6/25/03.

- 6. Later, because of the difficulty of reading at time due to the blurring of vision, I had to buy eye drops as well as reading glasses. My exposure to ETS has caused the injury of severe eye irritations to occur. In addition, having been experiencing nerve damage in that my left eye jitters as if blinking. This injury as well is caused by ETS exposure. See Attached Receipts of Purchase.
- 7. Plaintiff has recently, as of January 1, 2006, suffered personal injuries thought to at first been associated with eating bad food given by the Prison Officials causing an outbreak of symptoms resembling the "Hives." However, to Plaintiff's dissatisfaction after submitting two requests for a medical evaluation and seen by Clinical Director Dawn Marini, was told correctly on January 9, 2006 that Plaintiff was suffering from Pityriasis Rosea.
- 8. That, this was a kind of rare skin rash that had no known cause. That, it is a rash associated with oval like warts, reddish in kind with a severe itch. That, I was told it was nothing the Medical Staff could or would do to treat the rash because there: is no known cure. However, I was told that as far as the itching was concerned, the Medical could provide a cream but, which in this

case, the rash covered my entire torso and a cream would be inadequate in supply. Instead, the Clinical Director instructed that I be given orally, a pill medication to reduce the itching. That, the Medication Hydroxyzine is to be taken at 50 mg for 30 days with a refill for prescription. That, I was informed that Pityriasis could last for several months, mutating the entire body if possible. See Attached Precription Form. That, I was specifically rebuffed by Dawn M. Marini for accounting that the rash was probably from a package of sunflower seeds handed out by Prison Officials during the Christmas Holiday Season or for the mozerella cheese sold by the Prison Commissary as not being any of the causes associated with Pityriasis Rosea. See Data on Pityriasis Rosea.

9. That, afterward I conducted my own research at the Prison
Leisure Library by logging in time to discover exactly what is
Pityriasis Rosea and its cause. That, I was able to discover using
the Webster's Third New International Dictionary Unabridged, the
definition of Pityriasis Rosea. That, it stated: 1. One of several
skin diseases marked by the formation and desquamation of branny
scales; 2. A disease of domestic animals marked by dry epithelial
scales or scurf due to alteration of the function of the sebaceous
glands and possibly associated with digestive disorders. Further
study of what the meaning of sebaceous glands led to: any of the
small sacculated glands lodged in the substance of the derma, usually
opening into the hair follicles. and secreting an oily greasy material
composed in great part of fat which softens and lubricates the hair

and skin.

- 10. That, here the discovery found that I indeed have not only a rash of the skin but, that it is a skin disease. The disease marked by its characteristics is consistent with the suffering Plaintiff has been complaining about due to his exposure to ETS. That, Plaintiff is suffering from loss of appetite, skin irritations or itching, the discoloration of skin, loss of hair follicles, etc. The skin disease, Pityriasis Rosea, as stated above causes "dry epithelial scales or scurf due to alteration of the function of the sebaceous glands." Plaintiff affirms this is true concerning his exposure to Environmental Tobacco Smoke and will attest that such exposure is the likely cause of the skin disease Pityriasis Rosea, despite no known causes as informed by Dawn M. Marini.
- 11. Plaintiff affirms that he has requested and was seen by
 PA Hughes at FCI RayBrook concerning a rash in kind and discoloration
 of his skin previously. However, Plaintiff's claim was dismissed
 as a non concern resulting in the skin disease, Pityriasis Rosea.
 As Clinical Director, Dawn Mr. Marini, admitted, the initial rash
 or Mother Rash was the start to the proliferation of the rash
 spreading and covering my entire torso.
- 12. I have also been experiencing a newly formed spread of the skin disease believed to be Pityriasis Rosea or som other form associated with cancer. I recently requested to be seen by the Physician concerning this development after waiting for 6 months to see whether the so-called rash would dissipate as stated by Dr. Marini in my

last visit. However, this skin irritation has persisted and lasted longer than any Pityriasis Rosea. See Attached <u>Inmate Request Form</u> to Staff.

- 13. I am of the firm belief that this new skin irritation is the squamous type cell associated with cancer. It would be very rare for Pityriasis Rosea to affect the face. However, this is the very area that has been affected for some time. The conclusion is that this injury is the result of my exposure to ETS. See Attached Picture of Plaintiff's face.
- 14. I entered FCI McKean and FCI RayBrook having previously contracted an STD and after years of exposure had the STD exasperated. I reported to the FCI RayBrook medical facility that it appeared to have been a cold sore located on my upper lip. The medical practitioner informed me however, after examination, that the affected area was a herpes simplex virus I. This diagnosis is consistent with a sexually active person. However, I have not been exually active since entering the Federal Correctional Institutions of both McKean and RayBrook. I only understand that this is an injury where my exposure to ETS has exasperated the previous STD experienced in 1991. See Attached Medical Diagnosis Sheet; see also Defendant's Exhibit 5, Declaration of Dawn Marini at ¶3h.
- 15. Not related to exposure to ETS but, to clarify that I did not suffer any injury caused from a putty knife slipping into my hand. I did not suffer any superficial wound or scratch like on

September 19, 1997, as reported in the Inmate Injury and Assessment Follow-up Medical File. This injury report is inaccurate as it states the name of the injured person to being Brown, Thomas. See Attached Inmate Injury and Assessment and Follow-Up.

I, <u>DEMETRIUS BROWN</u>, hereby affirm and declare under penalty of perjury, 28 U.S.C. §1746, that the foregoing is true and correct.

Venetin Brown

3-8-07 Dated

cc:file db/db

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P.S. 6000.05 September 15, 1996 Attachment IV-E, Page 1

FEDERAL BUREAU OF PRISONS DENTAL/MEDICAL HEALTH HISTORY FORM

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	19 TES	TRESULTS (Copies	of res	sults a	are preferred a	s attachment	ts)			
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10 Cas	e 1:04-cv-0	0379	<u>\$9M-</u>						THER F			3/2007	Pa	ge 13 of 24	
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APERSON OF

WEDICATION INFORMATION

HYDROXYZINE 25 MG TAB Case 1:04-cv-00379-SJM-SPB Filed 03/15/2007 Document 92-6

Page 16 of 24

Rx # 368327

COMMON USES: This medicine is an antihistamine used to treat anxiety, to relieve itching caused by allergic conditions, and to cause drowsiness. It may also be used to treat other conditions as determined by your doctor.

BEFORE USING THIS MEDICINE: INFORM YOUR DOCTOR OR PHARMACIST of all prescription and over-the-counter medicine that you are taking. Inform your doctor of any other medical conditions, allergies, pregnancy, or breast-feeding.

HOW TO USE THIS MEDICINE: Follow the directions for using this medicine provided by your doctor. THIS MEDICINE MAY BE TAKEN WITH FOOD if it upsets your stomach. STORE THIS MEDICINE at room temperature in a tightly-closed container, away from heat and light. IF YOU MISS A DOSE OF THIS MEDICINE and you are using it regularly, take it as soon as possible. If it is almost time for your next dose, skip the missed dose and go back to your regular dosing schedule. Do not take 2 doses at once.

CAUTIONS: THIS MEDICINE WILL ADD TO THE EFFECTS of other depressants and alcohol. Ask your pharmacist if you have questions abowhich medicines are depressants. DO NOT DRIVE, OPERATE MACHINERY, OR DO ANYTHING ELSE THAT COULD BE DANGEROUS until you react to this medicine. Using this medicine alone, with other medicines, or with alcohol may lessen your ability to drive or to perform other potentially dangerous tasks. Caution should be used in the elderly since they may be more sensitive to the effects of this drug. FOR WOMEN: IF YOU PLAN ON BECOMING PREGNANT, discuss with your doctor the benefits and risks of using this medicine during pregnancy. IT IS UNKNOWN IF THIS DRUG IS EXCRETED in breast milk. DO NOT BREAST-FEED while taking this medicin

POSSIBLE SIDE EFFECTS: SIDE EFFECTS, that may go away during treatment, include drowsiness or dry mouth. If they continue or are bothersome, check with your doctor. If you notice other effects not listed above, contact your doctor, nurse, or pharmacist.

OVERDOSE: If overdose is suspected, contact your local poison control center or emergency room immediately. Symptoms of overdose may include unusual drowsiness and dizziness.

ADDITIONAL INFORMATION: DO NOT SHARE THIS MEDICINE with others for whom it was not prescribed. DO NOT USE THIS MEDICINE to health conditions. KEEP THIS MEDICINF out of the reach of children. IF USING THIS MEDICINE FOR AN EXTENDED PERIOD OF TIME, obtain refills before your supply runs out.

> Database Edition 05.4 - Expires January 2006 Copyright 2005 Wolters Kluwer Health, Inc. All rights reserved.

FCI RAY BROOK PHARMACY (518) PO BOX 300 - RAY BROOK, NY 12977 368326 E. SWEATT (518) 897-4000 01/09/06 BROWN, DEMETRIUS FCI RAY BROOK - A01-147U 21534-039 ***PILL LINE*** TAKE TWO TABLETS (50MG) @ 1930

#2 **HYDROXYZINE 25 MG TAB** RxExp 02/07/06 01/09/2006 LIS (0)Refills

CAUTION: Federal/State law prohibits transfer of this drug to any person other than patient for whom prescribed.

1y riasis rosea

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Health Ho

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Sponsored by: NIKEW

Encyclopedia provided by: Healthwise

Pityriasis Rosea

Topic Contents

Topic Overview

Related Information

References

Credits

Related Encyclopedia Topics: Ringworm of the Skin, Skin Changes, Tinea Versicolor

Topic Overview

What is pityriasis rosea?

Pityriasis rosea is a harmless, common skin problem that causes a rash. Although it can occur at any age, it is s often in those between the ages of 10 and 35.

See an illustration of pityriasis rosea.

What causes pityriasis rosea?

The cause of pityriasis rosea is unknown. Unlike many other skin conditions, it is not an <u>allergic reaction</u> or caus <u>fungus</u> or bacteria. Experts suggest that it may be caused by a virus, although it does not seem to spread from person (contagious) as most viruses do.

What are the symptoms?

Pityriasis rosea causes a rash.

The rash often begins with a single, round-to-oval, pink patch that is scaly with a raised border (herald patch). I ranges from 2 cm (0.8 in.) to 10 cm (3.9 in.). The larger size is more common. See an illustration of a herald pe Days to weeks later, salmon-colored, 1 cm (0.4 in.) to 2 cm (0.8 in.) oval patches appear in batches on the abd chest, back, arms, and legs. Patches sometimes spread to the neck but rarely to the face.

Patches on the back are often vertical and angled to form a "Christmas tree" or "fir tree" appearance.

Document 92-6

The rash usually does not itch, although there may be mild itching. About 25% of people with the condition hav

The rash usually lasts 6 to 8 weeks, but it can last up to several months.

The rash may take other forms. Rounded bumps (papular rash) may be seen in young children, pregnant wome blacks; and blisters (vesicular rash) may be seen in infants and young children. In some people, the herald patcl appear, or two herald patches may appear close together.

Before the herald patch appears, you may feel tired and as though you have a cold. You may have a headache, sore throat, and loss of appetite.

The pityriasis rosea rash is similar to the rash seen in other skin conditions, including ringworm of the skin, tinea eczema, and psoriasis.

A rash similar to pityriasis rosea is also caused by certain medications, such as antibiotics, and by syphilis.

How is pityriasis rosea diagnosed?

Your health professional will diagnose pityriasis rosea by looking at the rash. Diagnosis can be difficult when only patch is visible; the condition is often mistaken for ringworm or eczema at this time. Once the rash appears, diag generally clear.

If the diagnosis is unclear, your health professional may do a potassium hydroxide (KOH) test to make sure it is infection. A skin sample may be taken from the infected area and examined under the microscope (biopsy). If the is unclear in a sexually active person, a test for syphilis is often done.

How is it treated?

Pityriasis rosea will usually go away in 6 to 8 weeks without treatment. If the rash itches, you may wish to use sk and lubricants to soothe itching. If symptoms are severe, anti-inflammatory medications such as corticosteroids used to relieve itching and reduce the rash. Some people may try other medications, such as antifungals, becau looks like ringworm. However, because pityriasis rosea is not caused by a fungus, these medications are not eff

Exposing the rash to sunlight may make it go away more quickly. However, exposing your skin to the sun too lor result in sunburn and increase your risk of skin cancer.

If the rash lasts more than 3 months, contact your health professional.

To relieve itching at home:

Keep the itchy area cool and moist. Apply washcloths soaked in ice water. However, remember that repeated \ drying will actually dry your skin. Dry skin can worsen itching caused by a rash.

Avoid taking hot showers or baths. Keep the water as cool as you can tolerate.

Try an oatmeal bath, such as Aveeno Colloidal Oatmeal bath, to help relieve itching. You may also wrap 1 cup in a cotton cloth and boil as you would to cook oatmeal. Use this as a sponge and bathe in cool water without s Try a nonprescription 1% hydrocortisone cream for small itchy areas. Use the cream very sparingly on the face A nonprescription antihistamine medication, such as chlorpheniramine maleate (Chlor-Trimeton) or diphenhydr (Benadryl), may also reduce itching.

Apply a moisturizer or calamine lotion to the skin while it is damp.

Wear cotton or silk clothing. Avoid wearing wool and acrylic fabrics next to your skin.

Use as little soap as possible. Use gentle soaps, such as Basis, Cetaphil, Dove, or Oil of Olay. Avoid deodorar when you have a rash.

Author: Paul Lehnert

Medical Review: Adam Husney, MD - Family Medicine

Last Updated: July 8, 2004



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BP-S148.055 INMATE REQUEST TO STAFF CDFRM SEP 98 Case 1:04-cv-00379-SJM-SPB Document 92-6

ent 92-6 Filed 03/15/2007 Page 20 of 24

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

DATE:
2/27/07
REGISTER NC.:
21534-039
UNIT:
Ausable

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

*	I would like to request medical attention for an area located
	on my face which appears to be a squamous cell reddish in color.
	This marking has appeared on my body before in the neck and torso
	area. At that time, I was diagnosed with Pityriasis rosea. I am not
	exactly sure whether these markings are signs of cancer but, possibly
	are. Therefore, I would like an examination to conclude if so or not.
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(Do not write below this line)

DISPOSITION:

Make a sich call appointment (fill out sich call paperwork) and come to health Suc. Men. The Thurs, Fri at 6:15 Am or when your unit is let out for breakfast.

Signature Staff Member

3/4/07

Date

Record Copy - File; Copy - Inmate (This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86 and BP-S148.070 APR 94



0 New#150 NAME 11.87.86 818 / 第8

DATE	SYMPTOMS, DIAGNOSIS, TREATMENT, TREATING ORGANIZATION (Sign each entry)
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U.S. DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

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